

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ORACLE AMERICA, INC.,  
Plaintiff,

v.

GOOGLE INC.,  
Defendant.

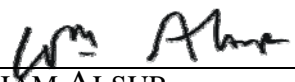
No. C 10-03561 WHA

**REQUEST FOR BRIEFING RE  
ADMISSIBILITY OF PRIOR  
STATEMENTS IN CASE**

By **MONDAY AT NOON**, please supply memoranda (ten pages, double-spaced, no attachments) on whether “findings” relied upon by an appellate court to reverse constitute “law” of the case upon remand to the district court. Also brief whether if some fact appears “undisputed” to the appellate court and is relied upon by that court for a reversal, the losing party on remand is thereby estopped to dispute the item. How would this differ from conceding a point solely for purposes of argument? Finally, regardless of the foregoing, should prior factual statements of counsel be admitted in evidence (before the jury) to contradict factual arguments the same counsel later make to the jury. Yes, this will place trial counsel in the position of possibly having to testify, but shouldn’t counsel be held to their word? PLEASE CITE AND QUOTE FROM DECISIONS ON POINT (EVEN IF ADVERSE TO YOUR POSITION).

**IT IS SO ORDERED.**

Dated: April 22, 2016.

  
WILLIAM ALSUP  
UNITED STATES DISTRICT JUDGE